UNITED
NATIONS

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Security Council

Distr.
GENERAL

S/1994/713
15 June 1994

ORIGINAL: ENGLISH

LETTER DATED 15 JUNE 1994 FROM THE PERMANENT REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to forward herewith the 1993 report of the activities of the United Nations Command (UNC), prepared by the Commander-in-Chief, United Nations Command. The report is submitted in accordance with Security Council resolution 84 (1950) of 7 July 1950, and updates the last report submitted to the Security Council on 15 June 1993 (S/25031).

I would be grateful if you could kindly arrange to have this report circulated as a document of the Security Council.

(Signed) Madeleine K. ALBRIGHT

Annex

Report of the activities of the United Nations Command, 1993

I. UNITED NATIONS COMMAND AND ITS MISSION

1. The Security Council in its resolution 82 (1950) of 25 June 1950 determined that the armed attack on the Republic of Korea by forces from North Korea constituted a breach of the peace, and called for the immediate cessation of hostilities and called upon the authorities of North Korea to withdraw forthwith their armed forces to the 38th parallel. The Security Council in its resolution 83 (1950) of 27 June 1950, having noted that the authorities in North Korea had neither ceased hostilities nor withdrawn their armed forces to the 38th parallel, recommended that the Members of the United Nations furnish such assistance to the Republic of Korea as might be necessary to repel the armed attack and to restore international peace and security in the area. On the basis of Chapter VII of the Charter of the United Nations, the Security Council, in its resolution 84 (1950) of 7 July 1950, recommended that all United Nations Member States make military forces and other assistance available to a unified command under the United States of America, and requested the United States to designate the commander of the unified command and to provide the Security Council with reports as appropriate on the course of action taken under the unified command. The authority of the unified command under the aforesaid Security Council resolutions to conduct military operations in Korea against the North Korean aggression included also the authority to negotiate a military armistice to end the fighting on a basis consistent with United Nations objectives and principles. The Commander-in-Chief, United Nations Command (CINCUNC), signed the 27 July 1953 Korean Armistice Agreement on behalf of all the forces of the 16 United Nations Member States and the Republic of Korea, which fought under the United Nations flag. The Armistice Agreement is a military agreement between the opposing military commanders to stop the Korean conflict and ensure a complete cessation of hostilities. Furthermore, it is intended to make possible a final peaceful settlement and assumes that this end will, in good faith, be pursued. The General Assembly, in its resolution 811 (IX) of 11 December 1954 took note of paragraph 62 of the Armistice Agreement of 27 July 1953, which provides that the Agreement "shall remain in effect until expressly superseded either by mutually acceptable amendments and additions or by provision in an appropriate agreement for a peaceful settlement at a political level between both sides", and reaffirmed that the objectives of the United Nations remain the achievement by peaceful means of a unified, independent and democratic Korea and the full restoration of international peace and security in the area. Pursuant to paragraph 17 of the Armistice Agreement, all CINCUNC successors in command are responsible for compliance with and enforcement of the terms and provisions of the Armistice Agreement. UNC continues to carry out its functions and fulfil its obligations under the mandate of the Armistice Agreement until a durable peace is achieved through political dialogue by the parties directly concerned with the Korean conflict. Of the original 16 United Nations Member States that provided military forces to UNC during the Korean War, 9 nations are represented today. They are Australia, Canada, Colombia, France, New Zealand, the Philippines, Thailand, the United Kingdom of Great Britain and Northern Ireland and the United States. The

present report updates the United Nations Command report to the Security Council on the maintenance of the Korean Armistice of 15 June 1993 (S/25031).

II. ARMISTICE MECHANISM AND PROCEDURES

2. The Armistice Agreement is the only legal regime for the cease-fire in Korea and affects the actions of both sides to the conflict. It must be preserved until a more durable peace is achieved. The Armistice Agreement provisions are military in character and pertain solely to the belligerents in Korea. CINCUNC signed the Armistice Agreement on behalf of all military forces under the unified command, and the Commanders of the Korean People's Army (KPA) and the Chinese People's Volunteers (CPV) signed the Agreement on behalf of the Communist forces. It is the responsibility of the opposing commanders to enforce the cease-fire by all forces in Korea and establish measures and procedures to ensure compliance. In this connection, the opposing military commanders must maintain effective communications to preclude possible incidents and de-escalate the situation in the event that incidents occur.

A. Military Armistice Commission

3. The Military Armistice Commission (MAC) was established by the Armistice Agreement "to supervise the implementation of this Armistice Agreement and to settle through negotiations any violations of this Armistice Agreement". The Commission is a joint organization without a chairman, composed of 10 military members: five senior officers from UNC and five senior officers from KPA/CPV. In accordance with paragraph 20 of the Armistice Agreement, CINCUNC appoints five senior officers drawn from the Republic of Korea, the United States, the United Kingdom and other United Nations Member States still represented in UNC. MAC meetings can be held at the request of either side and occur in the Joint Security Area, more commonly known as Panmunjom, in the Demilitarized Zone (DMZ). In accordance with the Armistice Agreement, each side appoints a Secretary, an Assistant Secretary and other special assistants, as required, to perform functions in support of MAC. MAC Secretaries conduct their own meetings as required and serve as the basic channel of communications between both sides. The Joint Duty Office under the MAC secretariat is located in the Joint Security Area and maintains 24-hour telephone communications between both sides. The joint duty officers also meet as required. MAC is authorized under paragraph 27 of the Armistice Agreement to dispatch joint observer teams to investigate reported violations of the Armistice Agreement that occur within the DMZ. The KPA/CPV have, however, frustrated this important investigative function by continuously refusing to participate in the investigations proposed by UNC. They have failed to participate in more than 170 joint investigations of serious incidents in the DMZ since April 1967. However, UNC continues to dispatch its observer teams into the UNC portion of the DMZ to conduct unilateral investigations of alleged armistice violations reported to have occurred in the DMZ and to supervise the implementation of the Armistice Agreement provisions pertaining to the DMZ. UNC liaison officers from the nine United Nations Member States still represented in UNC participate in these UNC joint observer team activities in the DMZ. In 1993, UNC dispatched its joint observer teams on 47 occasions to carry out these functions.

B. Republic of Korea Senior Member

4. In accordance with paragraph 20 of the Korean Armistice Agreement, CINCUNC appointed Major-General Hwang Won-tak, Republic of Korea Army, as the UNCMAC Senior Member (spokesman), effective 25 March 1991. The KPA/CPV component of MAC was officially notified of General Hwang's appointment through a joint duty officers' meeting held at Panmunjom on 25 March 1991. The UNC joint duty officer also attempted to pass credentials for Major-General Hwang as the new Senior Member, UNCMAC. The KPA joint duty officer rejected the credentials, saying "the South Korean Army (armed forces) is neither a signatory to the Armistice Agreement nor a member of UNC, and cannot represent the whole armed forces now in South Korea. I have been instructed not to receive the credentials". This North Korean argument is, however, without merit. CINCUNC signed the Armistice Agreement for UNC forces from 16 United Nations Member States and the Republic of Korea. No individual nation or its military forces is a signatory to the Armistice Agreement. During the Armistice negotiations and subsequent to the signing of the Agreement, the KPA/CPV specifically requested that the Republic of Korea furnish assurances that its forces would abide by the terms of the Agreement, saying that the Korean Armistice would not work unless the Republic of Korea abided by the Agreement. UNC relayed such assurances to the KPA/CPV. Today, the Republic of Korea provides "DMZ police" throughout the entire UNC (southern) portion of the DMZ to maintain the Armistice. In addition, Republic of Korea senior military officers have regularly served as MAC members for the past 40 years. The Armistice Agreement does not address MAC membership by nationality or United Nations affiliation and it gives no guidelines for designating a senior member. Each side has discretionary authority to appoint its members, and such appointments are not subject to approval by the other side. Furthermore, the appointment of a Republic of Korea general officer as the UNCMAC Senior Member does not transfer CINCUNC's Armistice maintenance responsibilities to the Republic of Korea armed forces or the Government of the Republic of Korea. In addition, as signatory to the Armistice Agreement CINCUNC is ultimately responsible for ensuring that UNC forces comply with it. Article 5 of the Agreement on Reconciliation, Non-aggression, Exchanges and Cooperation between the South and the North", effective 19 February 1992, stipulates that "the two sides [North and South Korea] shall endeavour together to transform the present state of armistice into a solid state of peace between the South and North and shall abide by the present Military Armistice Agreement [of 27 July 1953] until such a state of peace has been realized". Thus, the Armistice Agreement remains the only legal regime until it is replaced by a more durable peace. North Korea should accept these facts, recognize the Republic of Korea Senior Member and come to plenary MAC meetings to discuss Armistice-related issues, including tension reduction and confidence-building measures, and help promote peace and stability on the Korean Peninsula. It must be emphasized that the Military Armistice Commission is an integral part of the Korean Armistice. Although formal plenary MAC meetings have not been held since the appointment of the Republic of Korea general officer as the UNCMAC Senior Member in March 1991, the Joint Duty Office "hotline" in Panmunjom is used by both sides, and MAC Secretaries continue to meet regularly to discuss Armistice-related issues and act as an intermediary in transmitting communications between the Commanders of the opposing sides.

C. Neutral Nations Supervisory Commission

5. The Neutral Nations Supervisory Commission (NNSC), established in accordance with paragraph 37 of the Armistice Agreement, is composed of four senior officers, two of whom were appointed by "neutral nations" nominated by the Commander-in-Chief, United Nations Command, namely, Sweden and Switzerland, and two of whom were appointed by "neutral nations" nominated by the Supreme Commander of the Korean People's Army and the Commander of the Chinese People's Volunteers, namely, Poland and Czechoslovakia. The term "neutral nations" in the Armistice Agreement is defined as nations whose combatant forces did not participate in the Korean Conflict. The primary function of NNSC is to conduct independent inspections and investigations of Armistice Agreement violations outside the DMZ and to report its findings to the Military Armistice Commission.

6. The KPA/CPV reluctantly agreed to an inspection system proposed by UNC. However, they undermined the NNSC function within several years after the signing of the Armistice Agreement. For instance, they have shipped reinforcing modern weapons and equipment into North Korea, completely bypassing the designated ports of entry, in violation of paragraph 13 (d) of the Armistice Agreement.

7. Since a Republic of Korea general officer was appointed as the UNCMAC Senior Member the KPA not only suspended MAC plenary sessions and MAC Senior Member-level communications, but also suspended its reports to MAC and NNSC on paragraphs 13 (c) and (d) of the Armistice Agreement which prohibit the introduction into Korea of reinforcing arms and military personnel.

8. Furthermore, KPA encouraged the Czech and Polish NNSC delegations to initiate withdrawal, terminated protocol contacts and harassed those delegations to make their life difficult. The Czech delegation was compelled to withdraw on 10 April 1993, as Czechoslovakia split into two separate States in January 1993.

9. At present, the North Koreans seek to end the NNSC arrangement as well as MAC, and thus are chipping away at the basic foundation of the Armistice architecture. These North Korean attempts, contrary to the letter and spirit of the Armistice Agreement, must be thwarted by the international community in order to preserve and maintain the existing Armistice until it is replaced by a more durable peace. UNC has continued to call upon North Korea to nominate a successor for Czechoslovakia so that NNSC may continue to function. This they have not done. Although NNSC activities have been curtailed over the years the presence of these "neutral" representatives continues to provide a stabilizing influence on the activities of the opposing sides. UNC believes that NNSC continues to be an integral part of the Korean Armistice. The Security Council will be kept informed of further developments on this issue in future reports.

D. UNC remains issue

10. Beginning in August 1992, the MAC Secretaries began a series of discussions on a Memorandum of Understanding dealing with the recovery and repatriation of UNC Korean War remains. KPA wanted UNC to sign a Memorandum of Understanding stipulating that the UNC war remains issue should be resolved through bilateral

negotiations between the KPA Supreme Command and UNC headquarters. Following year-long negotiations, an Agreement on Remains-related Matters was signed on 24 August 1993 (see appendix). Since that time, KPA has returned 131 sets of UNC Korea War remains in four repatriations from 30 November to 21 December 1993. The Agreement on Remains-related Matters has become the foundation for regularizing cooperation on remains recovery operations and organizing the newly formed KPA-UNC Remains Working Group, whose mission is to locate, exhume, repatriate and identify the remains of UNC personnel located north of the military demarcation line. Throughout these repatriations, identification of remains has been a significant problem. Thus far, only one of the 131 sets of remains repatriated has been identified, although the improved forensic condition of recently returned remains may result in additional identifications.

III. NORTH-SOUTH RELATIONS

11. The prime ministers of the Republic of Korea and the Democratic People's Republic of Korea signed an Agreement on Reconciliation, Non-aggression, Exchanges and Cooperation between the South and the North on 13 December 1991, during their fifth round of high-level talks at Seoul. On 19 February 1992, during their sixth round of talks at Pyongyang, the prime ministers of the Republic of Korea and the Democratic People's Republic of Korea exchanged ratification documents and agreed to implement the Agreement and also a south-north Joint Declaration on Denuclearization of the Korean Peninsula, which had been initialled on 31 December 1991. At their eighth round of talks at Pyongyang in September 1992, the two sides' prime ministers established four south-north joint commissions - a reconciliation commission, a military commission, an economic exchanges commission and a socio-cultural commission - to supervise the implementation of the Agreement. The commissions never functioned, however, as the Democratic People's Republic of Korea, protesting Team Spirit and other Republic of Korea-United States exercises, refused to attend any of the initial commission meetings scheduled in November 1992. (The Republic of Korea and the United States had offered to cancel Team Spirit if the Democratic People's Republic of Korea accepted prompt nuclear inspections, but the Democratic People's Republic of Korea refused.)

12. On 12 March 1993, the Democratic People's Republic of Korea announced its intention to withdraw from the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), effective 12 June 1993, blaming Team Spirit and United States influence over the International Atomic Energy Agency (IAEA). In May 1993, the Republic of Korea proposed resuming talks with the Democratic People's Republic of Korea to discuss the Joint Declaration on Denuclearization of the Korean Peninsula and the Non-proliferation Treaty, but the Democratic People's Republic of Korea rejected the proposal. The Democratic People's Republic of Korea insisted it must settle the nuclear issue with the United States, not the Republic of Korea, and in fact held high-level talks with the United States in June and July 1993. Later in 1993, the Republic of Korea and the Democratic People's Republic of Korea held several meetings intended to arrange for south-north exchanges of special presidential envoys to arrange for summit talks and resolve south-north issues, including joint nuclear inspections. Those talks made no substantive progress, however, owing to objections by the Democratic

People's Republic of Korea to Team Spirit and the alleged efforts of the Republic of Korea to rally world opinion against the Democratic People's Republic of Korea.

13. While UNC is not directly involved in the south-north dialogue or negotiations, it has provided administrative and security assistance to these talks and other contacts held in the Joint Security Area in Panmunjom. The simultaneous entry of the Republic of Korea and the Democratic People's Republic of Korea into the United Nations in September 1991 did not affect either the status or the role of UNC. UNC continues to perform an important peace enforcement role in Korea, particularly in maintaining the Armistice until an effective and enduring peace is attained through political dialogue.

14. As of the date of this report, neither the Agreement on Reconciliation, Non-aggression, Exchanges and Cooperation nor the Joint Declaration on Denuclearization of the Korean Peninsula, nor any of their implementing measures or organizations, are functioning.

IV. CONCLUSIONS

15. The maintenance of timely and effective communications between the Commanders of the opposing military forces is vital to preclude possible incidents and defuse the situation in the event that incidents occur, thereby preventing the resumption of hostilities. Both parties to the Korean Armistice (UNC and KPA/CPV) have played a role in this vital activity for more than 40 years. To continue this vital mission until a more durable peace is attained, both sides must fully cooperate to preserve the existing means of communication through the Armistice mechanism - the Military Armistice Commission - which is an integral part of the Armistice. UNC will continue efforts to implement the Armistice Agreement, thereby maintaining the stable environment that is conducive to south-north dialogue, with an ultimate goal of attaining a durable peace on the Korean Peninsula.

Appendix

Agreement on remains-related matters and pertinent armistice agreement provisions

I. AGREEMENT ON REMAINS-RELATED MATTERS

The Korean People's Army (KPA) and the United Nations Command (UNC) recognize the importance, for humanitarian reasons, of full and regular cooperation for the recovery, repatriation, and identification of UNC war remains located north of the military demarcation line (MDL). Therefore, both sides agree as follows:

Both sides shall cooperate with each other in locating, exhuming, repatriating and identifying the remains of UNC personnel located north of the MDL.

The KPA will search for and exhume the remains of UNC soldiers buried north of the MDL and repatriate those remains to UNC.

The UNC will render support, as necessary, to aid the KPA's search, exhumation and repatriation efforts.

Both sides agree to exploit actively all available information in the search, exhumation and repatriation effort. Both sides will exercise the necessary scientific care in exhuming, repatriating and handling remains to ensure a reasonable chance of identification.

To achieve the objectives of this agreement, both sides agree to form a working group to exchange information and coordinate remains recovery, repatriation and identification efforts. This working group will be chaired by O-6 representatives from each side and will consist of seven regular members from each side. Technical specialists and observers can participate in working group activities as required by each side. Each side will determine its own working group membership, specialists and observers. Working group operating procedures will be determined jointly by the chairmen of each side.

Both sides will continually assess the progress made towards achieving the objectives of this agreement. If significant progress is not being achieved, both sides will consider additional measures to enhance the effectiveness of this agreement.

This agreement will become effective upon its signing by both sides. The working group established by this agreement will begin operation within 30 days of the effective date.

II. PERTINENT ARMISTICE AGREEMENT PROVISIONS

Paragraph 6: Neither side shall execute any hostile act within, from, or against the demilitarized zone.

Paragraph 7: No person, military or civilian, shall be permitted to cross the military demarcation line unless specifically authorized to do so by the Military Armistice Commission.

Paragraph 12: The Commanders of the opposing sides shall order and enforce a complete cessation of all hostilities in Korea by all armed forces under their control, including all units and personnel of the ground, naval and air forces, effective twelve (12) hours after this Armistice Agreement is signed. (See para. 63 hereof for the effective date and hour of the remaining provisions of this Armistice Agreement.)

Paragraph 13 (c): Cease the introduction into Korea of reinforcing military personnel; provided, however, that the rotation of units and personnel, the arrival in Korea of personnel on a temporary duty basis, and the return to Korea of personnel after short periods of leave or temporary duty outside of Korea shall be permitted within the scope prescribed below. "Rotation" is defined as the replacement of units or personnel by other units or personnel who are commencing a tour of duty in Korea. Rotation personnel shall be introduced into and evacuated from Korea only through the ports of entry enumerated in paragraph 43 hereof. Rotation shall be conducted on a man-for-man basis; provided, however, that no more than thirty-five thousand (35,000) persons in the military service shall be admitted into Korea by either side in any calendar month under the rotation policy. No military personnel of either side shall be introduced into Korea if the introduction of such personnel will cause the aggregate of the military personnel of that side admitted into Korea since the effective date of this Armistice Agreement to exceed the cumulative total of the military personnel of that side who have departed from Korea since that date. Reports concerning arrivals in and departures from Korea of military personnel shall be made daily to the Military Armistice Commission and the Neutral Nations Supervisory Commission; such reports shall include places of arrival and departure and the number of persons arriving at or departing from each such place. The Neutral Nations Supervisory Commission, through its Neutral Nations Inspection Teams, shall conduct supervision and inspection of the rotation of units and personnel authorized above, at the ports of entry enumerated in paragraph 43 hereof.

Paragraph 13 (d): Cease the introduction into Korea of reinforcing combat aircraft, armoured vehicles, weapons and ammunition; provided, however, that combat aircraft, armoured vehicles, weapons, and ammunition which are destroyed, damaged, worn out, or used up during the period of the armistice may be replaced on the basis of piece-for-piece of the same effectiveness and the same type. Such combat aircraft, armoured vehicles, weapons and ammunition shall be introduced into Korea only through the ports of entry enumerated in paragraph 43 hereof. In order to justify the requirement for combat aircraft, armoured vehicles, weapons and ammunition to be introduced into Korea for replacement purposes, reports concerning every incoming shipment of these items shall be made to the Military Armistice Commission and the Neutral Nations Supervisory

Commission; such reports shall include statements regarding the disposition of the items being replaced. Items to be replaced which are removed from Korea shall be removed only through the ports of entry enumerated in paragraph 43 hereof. The Neutral Nations Supervisory Commission, through its Neutral Nations Inspection Teams, shall conduct supervision and inspection of the replacement of combat aircraft, armoured vehicles, weapons and ammunition authorized above, at the ports of entry enumerated in paragraph 43 hereof.

Paragraph 14: This Armistice Agreement shall apply to all opposing ground forces under the military control of either side, which ground forces shall respect the demilitarized zone and the area of Korea under the military control of the opposing side.

Paragraph 15: This Armistice Agreement shall apply to all opposing naval forces, which naval forces shall respect the waters contiguous to the Demilitarized Zone and to the land area of Korea under the military control of the opposing side, and shall not engage in blockade of any kind of Korea.

Paragraph 16: This Armistice Agreement shall apply to all opposing air forces, which air forces shall respect the air space over the Demilitarized Zone and over the area of Korea under the military control of the opposing side, and over the waters contiguous to both.

Paragraph 17: Responsibility for compliance with and enforcement of the terms and provisions of this Armistice Agreement is that of the signatories hereto and their successors in command. The Commanders of the opposing sides shall establish within their respective commands all measures and procedures necessary to ensure complete compliance with all of the provisions hereof by all elements of their commands. They shall actively cooperate with one another and with the Military Armistice Commission and the Neutral Nations Supervisory Commission in requiring observance of both the letter and the spirit of all of the provisions of this Armistice Agreement.

Paragraph 20: The Military Armistice Commission shall be composed of ten (10) senior officers, five (5) of whom shall be appointed by the Commander-in-Chief, United Nations Command, and five (5) of whom shall be appointed jointly by the Supreme Commander of the Korean People's Army and the Commander of the Chinese People's Volunteers. Of the ten members, three (3) from each side shall be of general or flag rank. The two (2) remaining members on each side may be major-generals, brigadier generals, colonels or their equivalents.

Paragraph 24: The general mission of the Military Armistice Commission shall be to supervise the implementation of this Armistice Agreement and to settle through negotiations any violations of this Armistice Agreement.

Paragraph 26: The mission of the Joint Observer Teams shall be to assist the Military Armistice Commission in supervising the carrying out of the provisions of this Armistice Agreement pertaining to the demilitarized zone and to the Han River Estuary.

Paragraph 27: The Military Armistice Commission, or the senior member of either side thereof, is authorized to dispatch Joint Observer Teams to

investigate violations of this Armistice Agreement reported to have occurred in the demilitarized zone or in the Han River Estuary, provided, however, that not more than one half of the Joint Observer Teams which have not been dispatched by the Military Armistice Commission may be dispatched at any one time by the Senior Member of either side on the Commission.

Paragraph 37: The Neutral Nations Supervisory Commission shall be composed of four (4) senior officers, two (2) of whom shall be appointed by neutral nations nominated by the Commander-in-Chief, United Nations Command, namely, Sweden and Switzerland, and two (2) of whom shall be appointed by neutral nations nominated jointly by the Supreme Commander of the Korean People's Army and the Commander of the Chinese People's Volunteers, namely, Poland and Czechoslovakia. The term "neutral nations" as herein used is defined as those nations whose combatant forces have not participated in the hostilities in Korea. Members appointed to the Commission may be from the armed forces of the appointing nations. Each member shall designate an alternate member to attend those meetings which for any reason the principal member is unable to attend. Such alternate members shall be of the same nationality as their principals. The Neutral Nations Supervisory Commission may take action whenever the number of members present from the neutral nations nominated by one side is equal to the number of members present from the neutral nations nominated by the other side.

Paragraph 61: Amendments and additions to this Armistice Agreement must be mutually agreed to by the Commanders of the opposing sides.

Paragraph 62: The articles and paragraphs of this Armistice Agreement shall remain in effect until expressly superseded either by mutually acceptable amendments and additions or by provision in an appropriate agreement for a peaceful settlement at a political level between both sides.

S/1994/713/Add.1

UNITED NATIONS **S**

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Distr.
GENERAL

S/1994/713/Add.1
15 June 1994

ORIGINAL: ENGLISH

LETTER DATED 15 JUNE 1994 FROM THE PERMANENT REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

Addendum

I have the honour to forward herewith a special report to the Security Council prepared by the Commander-in-Chief, United Nations Command. The report is submitted in accordance with Security Council resolution 84 (1950) of 7 July 1950 and informs the Council of North Korean violations of the Armistice Agreement.

I would be grateful if you could kindly arrange to have this report circulated as a document of the Security Council.

(Signed) Madeleine K. ALBRIGHT

Annex

Special report of the United Nations Command to the Security Council dated 3 June 1994 on the attempt by the Korean People's Army to dismantle the Korean War Armistice Agreement

1. On 28 April 1994, the Korean People's Army (KPA) Military Armistice Commission (MAC) representative notified the United Nations Command (UNC) MAC representative that KPA intended to withdraw from MAC and expel the Polish delegation to the Neutral Nations Supervisory Commission (NNSC), in effect dissolving that organization. These actions constitute serious violations of both the spirit and the letter of the Armistice Agreement which brought about the current cease-fire in Korea. MAC, along with NNSC, provide a previously agreed means of communication dedicated to the prevention of incidents which might rupture the cease-fire and, failing that, for crisis management. The KPA action to unilaterally dissolve the Armistice maintenance mechanism constitutes a threat to the ability of the Commander-in-Chief, the United Nations Command, to maintain the military status quo pending a diplomatic resolution of the problem. This matter is significant enough to cause grave concern about the commitment of KPA to continued implementation and maintenance of the Armistice.

2. According to paragraph 17 of the Korean Armistice Agreement (see appendix I), the opposing commanders, successors to the signatories to the Armistice, are responsible for enforcing the cease-fire and establishing measures and procedures to ensure compliance. In this connection they must maintain the armistice mechanism, including MAC, under the provisions of paragraphs 19 through 30, and NNSC, under the provisions of paragraph 37. These agencies provide the means of maintaining communications, assisting in precluding possible incidents, and attempting to de-escalate incidents if they occur. Paragraphs 61 and 62 of the Agreement stipulate that amendments and additions to the Armistice Agreement must be agreed to by the opposing commanders. The events described below illustrate the KPA refusal to abide by the terms of the Armistice or to meet their obligations under its provisions.

3. On 28 April 1994 the KPA MAC Secretary delivered a message to UNC that KPA had decided the following:

(a) To call all remaining KPA MAC members and MAC staff personnel, cease participation in MAC activities and no longer recognize the UNC MAC as a counterpart;

(b) That it intended to withdraw the Polish NNSC delegation;

(c) To send a "new team" appointed by the Supreme Commander to contact the "U.S. Military" to discuss pending military issues including a new "durable peace ensuring system" to replace the MAC.

4. On 6 May 1994, the UNC MAC Secretary replied by signed letter to the 28 April 1994 KPA message indicating that:

(a) UNC rejected the KPA attempt to dismantle MAC and the NNSC unilaterally;

(b) UNC welcomed KPA verbal confirmation of its commitment to maintain the cease-fire provisions of the Armistice.

5. The KPA Secretary responded that the rejection by UNC would not change their decision and that they had already notified the Polish NNSC delegation to withdraw from North Korea. KPA further threatened to terminate contact and communication at Panmunjom if UNC refused to meet with the new representatives of the KPA Supreme Command. The KPA Secretary concluded with reaffirming that KPA would abide by all non-MAC related provisions of the Armistice Agreement.

6. This irresponsible unilateral action of the KPA component of MAC is but the latest in a series of attempts on their part to dismantle the Armistice Agreement maintenance mechanism. It is a clear violation of paragraphs 19 through 30 of the provisions of the Armistice Agreement pertaining to the composition and function of the MAC. The breach of the Armistice Agreement will deprive the Commander-in-Chief, United Nations Command (CINCUNC), of existing channels of communication with his North Korean counterpart without having any agreed replacement mechanism in place. The extremely serious nature of this latest action by KPA prompts CINCUNC to submit this report in accordance with the Security Council resolution 84 (1950) of 7 July 1950 (see appendix II).

7. There have been other violations. Besides attempting to dismantle MAC, KPA also intends to dissolve NNSC. Paragraph 37 of the Armistice Agreement clearly obligates both parties to maintain two "neutral" delegations to NNSC. The ejection of the Polish NNSC delegation without the appointment of a replacement is a clear violation of the provisions of that paragraph, as was the ejection of the Czech delegation in April 1993. Although NNSC activities have been curtailed over the years by their inability to perform their supervisory functions, the presence of these neutral representatives has continued to provide a stabilizing influence on the activities of the opposing sides. Actions to dismantle NNSC undermine the structure that has prevented a resumption of hostilities on the Korean peninsula for over forty years. These attempts must be prevented to preserve and maintain the Armistice until it is replaced by a true and lasting peace.

8. For further information on the role of the United Nations Command and the Republic of Korea involving the Armistice, see the report of CINCUNC to the Security Council (S/1994/713). That report and the present one show the importance of communication between the two sides being maintained through a system and structure agreed to by both sides until there is a political solution to the problem. In this regard, UNC will continue to carry out its functions and fulfil its obligations under the provisions of the Armistice Agreement.

9. There can be no peaceful resolution of the situation in Korea until the world has some faith that the North Koreans will abide by their agreements. MAC and NNSC can, of course, be changed or done away with, but this should be by mutual agreement rather than unilateral action. The issue of our faith in each other is the basis for the Armistice Agreement. UNC only asks that KPA continue to abide by its past word. Without resolution of the existing Armistice

problems, the possibility exists of a confrontation between the conventional forces still in contact for which there will be no mechanism immediately available to the on-scene commander to seek peaceful resolution.

Appendix I

Pertinent Armistice Agreement provisions

ARTICLE II

Concrete arrangements for cease-fire and armistice

A. General

Paragraph 12: The Commanders of the opposing sides shall order and enforce a complete cessation of all hostilities in Korea by all armed forces under their control, including all units and personnel of the ground, naval and air forces, effective twelve (12) hours after this Armistice Agreement is signed. (See paragraph 63 hereof for the effective date and hour of the remaining provisions of this Armistice Agreement).

Paragraph 13 (d): Cease the introduction into Korea of reinforcing combat aircraft, armoured vehicles, weapons, and ammunition; provided, however, that combat aircraft, armoured vehicles, weapons and ammunition which are destroyed, damaged, worn out or used up during the period of the armistice may be replaced on the basis of piece-for-piece of the same effectiveness and the same type. Such combat aircraft, armoured vehicles, weapons and ammunition shall be introduced into Korea only through the ports of entry enumerated in paragraph 43 hereof. In order to justify the requirement for combat aircraft, armoured vehicles, weapons and ammunition to be introduced into Korea for replacement purposes, reports concerning every incoming shipment of these items shall be made to the Military Armistice Commission and the Neutral Nations Supervisory Commission; such reports shall include statements regarding the disposition of the items being replaced. Items to be replaced which are removed from Korea shall be removed only through the ports of entry enumerated in paragraph 43 hereof. The Neutral Nations Supervisory Commission, through its Neutral Nations Inspection Teams, shall conduct supervision and inspection of the replacement of combat aircraft, armoured vehicles, weapons and ammunition authorized above, at the ports of entry enumerated in paragraph 43 hereof.

Paragraph 14: This Armistice Agreement shall apply to all opposing ground forces under the military control of either sides, which ground forces shall respect the demilitarized zone and the area of Korea under the military control of the opposing side.

Paragraph 15: This Armistice Agreement shall apply to all opposing naval forces, which naval forces shall respect the waters contiguous to the Demilitarized Zone and to the land area of Korea under the military control of the opposing side, and shall not engage in blockade of any kind of Korea.

Paragraph 16: This Armistice Agreement shall apply to all opposing air forces, which air forces shall respect the air space over the Demilitarized Zone and over the area of Korea under the military control of the opposing side, and over the waters contiguous to both.

Paragraph 17: Responsibility for compliance with and enforcement of the terms and provisions of this Armistice Agreement is that of the signatories hereto and their successors in command. The Commanders of the opposing sides shall establish within their respective commands all measures and procedures necessary to ensure complete compliance with all the provisions hereof by all elements of their commands. They shall actively cooperate with one another and with the Military Armistice Commission and the Neutral Nations Supervisory Commission in requiring observance of both the letter and the spirit of all of the provisions of this Armistice Agreement.

B. Military Armistice Commission

1. Composition

Paragraph 19: A Military Armistice Commission is hereby established.

Paragraph 20: The Military Armistice Commission shall be composed of ten (10) senior officers, five (5) of whom shall be appointed by the Commander-in-Chief, United Nations Command, and five (5) of whom shall be appointed jointly by the Supreme Commander of the Korean People's Army and the Commander of the Chinese People's Volunteers. Of the ten members, three (3) from each side shall be of general or flag rank. The two (2) remaining members on each side may be major-generals, brigadier generals, colonels or their equivalents.

Paragraph 22: The Military Armistice Commission shall be provided with the necessary administrative personnel to establish a Secretariat charged with assisting the Commission by performing record-keeping, secretarial, interpreting and such other functions as the Commission may assign to it. Each side shall appoint to the Secretariat a Secretary and an Assistant Secretary and such clerical and specialized personnel as required by the Secretariat. Records shall be kept in English, Korean and Chinese, all of which shall be equally authentic.

2. Functions and authority

Paragraph 24: The general mission of the Military Armistice Commission shall be to supervise the implementation of this Armistice Agreement and to settle through negotiations any violations of this Armistice Agreement.

Paragraph 25: The Military Armistice Commission shall:

a. Locate its headquarters in the vicinity of Panmunjom (37°57'29"N, 126°40'00"E). The Military Armistice Commission may re-locate its headquarters at another point within the Demilitarized Zone by agreement of the senior members of both sides on the Commission.

b. Operate as a joint organization without a chairman.

c. Adopt such rules of procedure as it may, from time to time, deem necessary.

d. Supervise the carrying out of the provisions of this Armistice Agreement pertaining to the Demilitarized Zone and to the Han River Estuary.

e. Direct the operations of the Joint Observer Teams.

f. Settle through negotiations any violations of this Armistice Agreement.

g. Transmit immediately to the Commanders of the opposing sides all reports of investigations of violations of this Armistice Agreement and all other reports and records of proceedings received from the Neutral Nations Supervisory Commission.

h. Give general supervision and direction to the activities of the Committee for Repatriation of Prisoners of War and the Committee for Assisting the Return of Displaced Civilians, hereinafter established.

i. Act as an intermediary in transmitting communications between the Commanders of the opposing sides; provided, however, that the foregoing shall not be construed to preclude the Commanders of both sides from communicating with each other by any other means which they may desire to employ.

j. Provide credentials and distinctive insignia for its staff and its Joint Observer Teams, and a distinctive marking for all vehicles, aircraft and vessels used in the performance of its mission.

Paragraph 26: The mission of the Joint Observer Teams shall be to assist the Military Armistice Commission in supervising the carrying out of the provisions of this Armistice Agreement pertaining to the demilitarized zone and to the Han River Estuary.

Paragraph 27: The Military Armistice Commission, or the senior member of either side thereof, is authorized to dispatch Joint Observer Teams to investigate violations of this Armistice Agreement reported to have occurred in the demilitarized zone or in the Han River Estuary; provided, however, that not more than one half of the Joint Observer Teams which have not been dispatched by the Military Armistice Commission may be dispatched at any one time by the Senior Member of either side on the Commission.

Paragraph 28: The Military Armistice Commission, or the senior member of either side thereof, is authorized to request the Neutral Nations Supervisory Commission to conduct special observations and inspections at places outside the Demilitarized Zone where violations of this Armistice Agreement have been reported to have occurred.

Paragraph 29: When the Military Armistice Commission determines that a violation of this Armistice Agreement has occurred, it shall immediately report such violation to the Commanders of the opposing sides.

Paragraph 30: When the Military Armistice Commission determines that a violation of this Armistice Agreement has been corrected to its satisfaction, it shall so report to the Commanders of the opposing sides.

3. General

Paragraph 31: The Military Armistice Commission shall meet daily. Recesses of not to exceed seven (7) days may be agreed upon by the senior members of both sides provided that such recesses may be terminated on twenty-four (24) hour notice by the senior member of either side.

Paragraph 35: The Military Armistice Commission may make recommendations to the Commanders of the opposing sides with respect to amendments or additions to this Armistice Agreement. Such recommended changes should generally be those designed to ensure a more effective armistice.

C. Neutral Nations Supervisory Commission

Paragraph 37: The Neutral Nations Supervisory Commission shall be composed of four (4) senior officers, two (2) of whom shall be appointed by neutral nations nominated by the Commander-in-Chief, United Nations Command, namely, Sweden and Switzerland, and two (2) of whom shall be appointed by neutral nations nominated jointly by the Supreme Commander of the Korean People's Army and the Commander of the Chinese People's Volunteers, namely, Poland and Czechoslovakia. The term "neutral nations" as herein used is defined as those nations whose combatant forces have not participated in the hostilities in Korea. Members appointed to the Commission may be from the armed forces of the appointing nations. Each member shall designate an alternate member to attend those meetings which for any reason the principal member is unable to attend. Such alternate members shall be of the same nationality as their principals. The Neutral Nations Supervisory Commission may take action whenever the number of members present from the neutral nations nominated by one side is equal to the number of members present from the neutral nations nominated by the other side.

ARTICLE V

Miscellaneous

Paragraph 61: Amendments and additions to this Armistice Agreement must be mutually agreed to by the Commanders of the opposing sides.

Paragraph 62: The articles and paragraphs of this Armistice Agreement shall remain in effect until expressly superseded either by mutually acceptable amendments and additions or by provisions in an appropriate agreement for a peaceful settlement at a political level between both sides.

Appendix II

Security Council resolution 84 (1950) of 7 July 1950

The Security Council,

Having determined that the armed attack upon the Republic of Korea by forces from North Korea constitutes a breach of the peace,

Having recommended that Members of the United Nations furnish such assistance to the Republic of Korea as may be necessary to repel the armed attack and to restore international peace and security in the area,

1. Welcomes the prompt and vigorous support which Governments and peoples of the United Nations have given to its resolutions 82 (1950) and 83 (1950) of 25 and 27 June 1950 to assist the Republic of Korea in defending itself against armed attack and thus to restore international peace and security in the area;

2. Notes that Members of the United Nations have transmitted to the United Nations offers of assistance for the Republic of Korea;

3. Recommends that all Members providing military forces and other assistance pursuant to the aforesaid Security Council resolutions make such forces and other assistance available to a unified command under the United States of America;

4. Requests the United States to designate the commander of such forces;

5. Authorizes the unified command at its discretion to use the United Nations flag in the course of operations against North Korean forces concurrently with the flags of the various nations participating;

6. Requests the United States to provide the Security Council with reports as appropriate on the course of action taken under the unified command.